

**Remarks**

Claims 1-3 and 5-15 are pending in the present application. Claims 1, 2 and 8 are independent claims.

**Allowable Subject Matter**

Claims 6 and 10 remain objected to, but allowable if rewritten in independent form.

**35 U.S.C. § 102(e) Rejection**

Claims 1-3, 5, 7-9 and 11-15 have been rejected under 35 U.S.C. § 102(e) as being anticipated by Kajiyama et al. (U.S. Patent No. 6,108,296). This rejection, insofar as it pertains to the presently pending claims, is respectfully traversed.

As stated by the Examiner in the last Office Action, Kajiyama et al. as shown in Figures 1 and 2 discloses a pit having a length of  $1T$ . In clear contrast, independent claims 1, 2 and 8 as currently amended require "a minimum length of the marked phase or unmarked phase being shorter than  $3T$  and larger than  $1T$ " (claim 1), "a minimum length of the marked phase is shorter than  $3T$  and larger than  $1T$ " (claim 2), and "the minimum length of the mark or space being shorter than  $3T$  and larger than  $1T$ " (claim 8). Thus, Kajiyama et al. does not anticipate the invention as set forth in independent claims 1, 2 and 8.

In the alternative, Kajiyama et al. fails to anticipate the invention as set forth in dependent claims 3, 7 and 9, or dependent claims 11, 12 and 14. More specifically,

claims 3, 7 and 9 require that the minimum length of the marked phase or the minimum length of the mark or space is "2T" and claims 11, 12 and 14 require that the minimum length of the marked phase or the mark or space is "1.5T". These features are absent from Kajiyama et al. since Kajiyama et al. shows the pit length of 1T in Figure 1.

Accordingly, independent claims 1, 2 and 8 and their dependent claims (due to their dependency) are patentable over the applied reference, and the rejection should be withdrawn.

#### **Conclusion**

For the foregoing reasons and in view of the above clarifying amendments, the Examiner is respectfully requested to reconsider and withdraw all of the objections and rejections of record, and to provide an early issuance of a Notice of Allowance.

Should there be any outstanding matters which need to be resolved in the present application, the Examiner is respectfully requested to contact Esther H. Chong (Registration No. 40,953) at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and further replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

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